
Site Address: 67 Priorsdean Crescent, Havant, PO9 3AS
Proposal: Application for a certificate of lawfulness in relation to the existing use of the former garage as a habitable room / for residential use [Amended description].
Application Type: Certificate of Lawfulness
Application No: APP/22/00926 Expiry Date: 12/12/2022
Applicant: Mrs Fudge
Agent: Case Officer: Lewis Ford
Ward: Barncroft

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

The application site is 67 Priorsdean Crescent, Havant, PO9 3AS.

The locality is predominantly residential in nature and the site, itself, includes a 1950s, two-storey, end-of-terrace, dwellinghouse. The dwellinghouse is of traditional brick and tile construction, and includes horizontal grey cladding panels, and UPVC windows and doors, on its external elevations. The dwellinghouse is set back from the road and includes hardstanding in its front curtilage to provide parking for up to 2no. vehicles. Finally, the dwellinghouse has been previously extended to in the form of; two, linked, mono-pitched extensions to the front; and a small, flat roofed, extension at the rear to link up with the converted garage.

2 Planning History

HWU/01959 – PERMISSION in August 1952 for the layout of Barncroft Farm, Park Lane, Havant, for residential and ancillary development.

HWU/02094 – PERMISSION in December 1952 for the erection of 420no. Wimpey Houses at Barncroft Park Estate, Leigh Park, Havant.

31886 – PERMISSION in June 1984 for front and rear extension at 67 Priorsdean Crescent, Havant.

07/71845/000 – PERMISSION in December 2007 for single storey extension to rear of property to link garage conversion with house.

3 Proposal

Application for a certificate of lawfulness in relation to the existing use of the former garage as a habitable room / for residential use [Amended description].

4 Policy Considerations

National Planning Policy Framework (**NPPF**)
Town and Country Planning (General Permitted Development) (England) Order 2015
(As amended) [Also known as the **GPDO**]

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Pamela Crellin - Barncroft

No comments received.

Councillor Yvonne Weeks - Barncroft

No comments received.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

This application was publicly consulted on between 20 October and 12 November 2022. During this time, no comments were received.

Comment	Officer Comment
No comments received.	

7 Planning Considerations

- 7.1 The application is made under Section 191 of the Town and Country Planning Act 1990 (as amended) and relates to the existing lawful use of the former garage at the site as a habitable room for residential use. In this instance, it is claimed that the former garage has been used as a habitable room for more than 10 years and, more specifically, that the former garage is currently being used as a bedroom with an ensuite. In having due regard to the GPDO, and the relevant policies in the development plan, it is considered that the main issues arising from this application is the principle of development.

Principle of Development

7.2 A search of the planning history of the site (see Section 2 above) has not revealed any conditions that would restrict; (1) the use of the garage to the parking of vehicles only; and (2) the property's permitted development rights (PDR) as set out in the GPDO. As such, formal planning permission would not have been required to convert the former garage into a habitable accommodation under **Schedule 2, Part 1, Class A** of the GPDO. The criteria and conditions of Class A have been replicated below:

- As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (excluding the original dwellinghouse) must not exceed 50% of the total area of the curtilage.
- The works must be wholly within the curtilage of the property with no encroachment into neighbouring properties by way of foundations, roofing, or guttering.
- Development must not be sited forward of the principal elevation or side elevation fronting a highway.
- Development must not exceed the height of the highest part of the existing dwelling.
- In the case of single storey rear extensions, these must not extend beyond the rear wall of the original house by more than 3 metres if an attached house, or by 4 metres if a detached house (these limits can be extended up to 6 metres and 8 metres if the subject of a prior notification application).
- Development must not exceed 4 metres in height.
- Development, when located within 2m of any boundary, must not have an eaves height of more than 3 metres.
- The height of the eaves of the development must not exceed the height of the eaves of the existing dwellinghouse.
- A side extension must be single storey; have a maximum height of 4 metres; and a width of no more than half that of the original dwellinghouse.
- The external materials used must be similar in appearance to the existing house (other than the materials used in the construction of a conservatory).
- The proposal must not include the addition of verandas, balconies or raised platforms.

7.3 The conversion of the garage would not have required planning permission providing that the above criteria and conditions were met, and that; (1) the resulting habitable room remained occupied in conjunction with the main dwellinghouse; and (2) the resulting habitable room was not established as a separate unit of residential accommodation. In terms of linking the garage conversion to the main dwellinghouse, this would have required formal planning permission as, together, the link and the garage conversion would not have met the provisions of Class A above. As such, Planning Permission was applied for, and granted on 20 December 2007, under ref. **07/71845/000** for a single storey rear extension at the property to link the existing garage conversion with the main dwellinghouse.

7.4 The approved plans from 2007 show that the former garage was being / was to be used as a study and/or games room, with an ensuite bathroom. However, the Applicant has now explained that the garage conversion is currently being used as a bedroom with an ensuite bathroom – this was confirmed by the case officer's site visit on 14 November 2022. In either scenario, the use of the former garage as a bedroom, games room and/or study would constitute a habitable room.

- 7.5 The approved plans from 2007 show that the garage conversion can only be accessed from the street via the main dwellinghouse. This was confirmed by the case officer's site visit on 14 November 2022.
- 7.6 The Applicant has stated in the Application Form that the works were substantially completed on 20 March 2008. The Final Certificate, issued under Section 51 of the Building Act 1984 and the Building (Approved Inspectors etc.) Regulations 2000 ("the 2000 regulations"), confirms that both the garage conversion and approved rear extension at the site were completed on 24 May 2010 which is more than 10 years ago. This means that even if the garage was not lawfully converted, it would now be immune from any planning enforcement action under Section 171B of the Town and Country Planning Act 1990.

8 Conclusion

- 8.1 The conversion of the former garage to a habitable room, for residential use, was carried out under permitted development rights (PDR) over 10 years ago, and a subsequent planning application was approved under ref. 07/71845/000 for a flat-roofed rear extension to connect the main dwellinghouse to the garage conversion. In light of all the above, a Lawful Development Certificate (LDC) **can** be issued.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/22/00926.

Information for Decision Notice:

Havant Borough Council, as Local Planning Authority, certifies that on 22 September 2022, the use described in the First and Second Schedule of this Certificate in respect of the land described in the Second Schedule was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The Local Planning Authority has considered the evidence and information submitted by the Applicant and the planning history of the site. It appears to the Local Planning Authority that the use described in the First and Second Schedules; would accord with Schedule 2, Part 1, Class A of the GPDO and planning permission was not required.

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a certificate of lawfulness in relation to the existing use of the former garage as a habitable room / for residential use [Amended description] as described in the written particulars, plans and other documents submitted to support your application as follows:

Application Form (Dated 22 September 2022)
Location Plan (Received 16 November 2022; Published 17 November 2022)
Drg No: 07/71845/000 – 2007 Approved Plans
Drg No: 07/71845/000 – 2007 Decision Notice

SECOND SCHEDULE:

This certificate relates to land at 67 Priorsdean Crescent, Havant, PO9 3AS as shown edged red on the submitted Location Plan received and published on 16 and 17 November 2022 respectively.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.